



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
(PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0081)
MR. AMBROSE (916) 445-5580
MS. STUMPF (916) 322-9569

JOHAN KLEHS
First District, Hayward

DEAN F. ANDAL
Second District, Stockton

CLAUDE PARRISH
Third District, Torrance

JOHN CHIANG
Fourth District, Los Angeles

KATHLEEN CONNELL
Controller, Sacramento

E. L. SORENSEN, JR.
Executive Director
No. 2000/017

February 18, 2000

TO COUNTY ASSESSORS,
COUNTY COUNSELS, AND
OTHER INTERESTED PARTIES:

**NOTICE OF PROPOSED REGULATORY ACTION
BY THE
STATE BOARD OF EQUALIZATION**

AMEND PROPERTY TAX RULES 305 AND 306 – LOCAL EQUALIZATION RULES

PUBLIC HEARING: WEDNESDAY, APRIL 5, 2000 AT 1:30 P.M.

NOTICE IS HEREBY GIVEN:

The State Board of Equalization, pursuant to the authority vested in the Board by section 15606 (c) of the Government Code, proposes to amend Rules 305 and 306 - Local Equalization Rules, in Title 18, Division 1 of the California Code of Regulations. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on April 5, 2000. Any person interested may present statements or arguments orally at that time and place. Written statements or arguments will be considered by the Board if received by April 5, 2000.

INFORMATIVE DIGEST

Rules 305 and 306 are amended to interpret and make specific the Constitutional and statutory authority of the Board to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing property values.

Rule 305 – Application. The proposed amendments set forth more precisely the contents of and provisions for amendment of an application, filing requirements and provisions for consolidation of applications by an appeals board.

Rule 306 – Copy of Application, Amendment, and Correction to Assessor. The proposed amendments specify that the clerk shall transmit copies of written requests for amendments or corrections to the assessor.

The express terms of the proposed action, written in plain English, are available from the agency contact person named in this notice.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendment of Rules 305 and 306 may impose minor costs on local agencies or school districts. However, the Board has determined that the new rule will result in no additional direct or indirect costs to any State agency or any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, and that there are no other non-discretionary costs or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code Section 11346.53(c), the Board of Equalization finds that the amendment of Rules 305 and 306 will not have a significant adverse economic impact on business, because the proposed changes only clarify existing constitutional and statutory interpretations.

The amendment and deletion of these rules will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment and deletion of these rules as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed amendment and deletion of the rules will not affect small business because the new rules only clarify existing constitutional and statutory interpretations.

ADVERSE ECONOMIC IMPACT ON PRIVATE PERSONS/BUSINESSES

There will be no adverse economic impact on private businesses or persons because the proposed changes only clarify existing constitutional and statutory interpretations.

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Rules 305 and 306 have no comparable Federal regulations.

PLAIN ENGLISH STATEMENT

Preparation of the proposed amendment to this regulation included consideration of the “plain English” requirement. Any technical terms that may be unfamiliar to the intended users and are not industry-recognized are defined or explained.

AUTHORITY

Government Code section 15606, subdivision (c).

REFERENCE

California Constitution, article XIII, section 16; Revenue and Taxation Code sections 51, 166, 408.1, 1603, 1605, 1606; Government Code section 25105.5

CONTACT

Questions regarding the content of the proposed regulations should be directed to: Mr. Louis Ambrose, Tax Counsel, at P.O. Box 942879, 450 N Street, MIC:82, Sacramento, CA 94279-0082. Telephone: (916) 445-5580; FAX (916) 323-3387.

Written comments for the Board’s consideration or requests to present testimony and bring witnesses to the public hearing should be directed to Ms. Mary Ann Stumpf, Regulations Coordinator, (916) 322-9569, and P.O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

The Board must determine that no alternative considered would be more effective in carrying out the purpose for which this action is proposed or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND OF TEXT OF PROPOSED REGULATIONS

The Board has prepared a statement of reasons and strike-out version of the proposed rules. Those documents and all information on which the proposals are based are available to the public upon request. The Rulemaking files are available for public inspection at 450 N Street, Sacramento, California. Requests for copies should be addressed to Ms. Mary Ann Stumpf, Regulations Coordinator, (916) 322-9569, at P. O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080. The express terms of the proposed regulations (rules) are available on the internet at the Board’s website <http://www.boe.ca.gov>.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may in accordance with law adopt the proposed amendments and deletions if the texts remain substantially the same as described in the texts originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed texts, the Board will make the modified texts, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation or regulations. The texts of any modified regulations will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulations will be available to the public from Ms. Stumpf. The State Board of Equalization will consider written comments on the modified regulations for fifteen days after the date on which the modified regulations are made available to the public.

Dated: January 28, 2000

STATE BOARD OF EQUALIZATION

/s/ Janice Masterton

Janice Masterton, Chief
Board Proceedings Division

Rule 305. APPLICATION.

No change in an assessment sought by a person affected shall be made unless the following application procedure is followed:

(a) ~~WHO MAY FILE.~~ **ELIGIBLE PERSONS.** ~~The (1) An~~ application is ~~made~~ filed by a person affected or ~~his~~ the person's agent, or a relative mentioned in regulation 317 of this division. If the application is made by an agent, other than an authorized attorney licensed to practice in this state who has been retained and authorized by the applicant to file the application, ~~or a relative mentioned in section 320,~~ written authorization to so act must be filed with the application. For purposes of signing an application on behalf of an applicant, an agent shall be deemed to have been duly authorized if the applicant's written agent authorization is on the application or attached to each application at the time it is filed with the board. The attached authorization shall include the following:

(A) The date the authorization statement is executed;

(B) A statement to the effect that the agent is authorized to sign and file applications in the specific calendar year in which the application is filed;

(C) The specific parcel(s) or assessment(s) covered by the authorization, or a statement that the agent is authorized to represent the applicant on all parcels and assessments located in the specific county;

(D) The name, address, and telephone number of the specific agent who is authorized to represent the applicant; and

(E) The applicant's signature and title.

(F) A statement that the agent will provide the applicant with a copy of the application.

(2) If a photocopy of the original authorization is attached to the application, the agent shall be prepared to submit an original signed authorization if requested by the board. The application form shall show that the agent's authorization was attached to the application. An agent must have authorization to file an application at the time the application is filed; retroactive authorizations are not permitted.

(3) If the applicant is a corporation, limited partnership, or a limited liability company, the agent authorization must be signed by an officer of the corporation or authorized employee of the business entity.

(4) No application shall be rejected as a duplicate application by the clerk unless it qualifies as a duplicate application within the meaning specified in section 1603.5 of the Revenue and Taxation Code.

(b) **SIGNATURE AND VERIFICATION.** The application shall be in writing and signed by the applicant or his the applicant's agent with a declaration under penalty of perjury that the statements made in the application are true and that the person signing the application is one of the following: ~~If the application is executed outside the State of California, it shall be sworn to before a notary public or other person authorized to administer oaths.~~

(1) The person affected, a relative mentioned in regulation 317 of this division, an officer of a corporation, or an employee of a corporation who has been designated in writing by the board of directors or corporate officer to represent the corporation on property tax matters;

(2) An agent authorized by the applicant as indicated in the agent's authorization portion of the application; or

(3) An attorney licensed to practice law in this state who has been retained by the applicant and who has been authorized by the applicant, prior to the time the application is filed, to file the application.

(c) FORMS AND CONTENTS. The county shall provide, free of charge, forms on which applications are to be made.

(1) The application form shall show be prescribed by the State Board of Equalization and shall require that the applicant provide the following information:

(1A) The name and address of the applicant;

(2B) The name and address of the applicant's agent, if any;. If the applicant is represented by an agent, both the applicant's actual mailing address and the agent's mailing address shall be provided on the application.

(C) The applicant's written authorization for an agent, if any, to act on the applicant's behalf.

(3D) A description of the property that which is the subject of the application sufficient to identify it on the assessment roll;

(4E) The applicant's opinion of the taxable value of the property on the valuation date of the assessment year in issue;

(5F) The taxable roll value on which the assessment of the property was based;

(6G) The facts relied upon to support the claim that the board should order a change in the assessed value, base year value, or classification of the subject property. The amount of the tax or the amount of an assessed value increase shall not constitute facts sufficient to warrant a change in assessed values.

(2) The form shall also include:

(7A) A notice that a list of property transfers within the county, which that have occurred within the preceding two-year period, is open to inspection at the assessor's office to the applicant upon payment of a fee of not to exceed ten dollars (\$10). This requirement shall not apply to counties with a population under 50,000 as determined by the 1970 decennial census.

(8B) A notice that written findings of fact will be available prepared by the board upon request if the applicable fee is paid. and an An appropriate place for the applicant to make the request shall be provided. (See sections 308 and 325 for other provisions regarding findings of fact.)

(3) An application may include one or more reasons for filing the application. Unless permitted by local rules, an application shall not include both property on the secured roll and property on the unsecured roll.

(4) An application which that does not show the foregoing items to be filled in by the applicant include the information required by subsection (c)(1) of this regulation is invalid and shall not be accepted by the board. Prompt notice that an application is invalid shall be given by the clerk to the applicant and, where applicable, the applicant's agent. An applicant or the applicant's agent who has received notice shall be given a reasonable opportunity to correct any errors and/or omissions. Disputes concerning the validity of an application shall be resolved by the board.

(5) An application which shows the foregoing items that includes the correct information required by subdivision (1) is valid and no additional information shall be required requested of the applicant on the application form. The application shall be in a form prescribed by the State Board of Equalization.

(6) If the county has appointed hearing officers as provided for in Revenue and Taxation Code section 1636, the application form shall advise the applicant of the circumstances under which he the applicant may request his that the application be heard by such an officer.

(7) If the application appeals property subject to an escape assessment resulting from an audit conducted pursuant to section 469 of the Revenue and Taxation Code, then all property, both real and personal, of the assessee at the same profession, trade, or business location shall be subject to review, equalization, and adjustment by the appeals board, except when the property has previously been equalized for the year in question.

(d) TIME OF FILING. (1)The An application appealing a regular assessment shall be filed with the clerk during the regular filing period beginning July 2 but no later than September 15. An application will be deemed to have been timely filed if it is sent by U.S. mail, property addressed with postage prepaid and is postmarked on September 15 or earlier within such period. A regular assessment is one placed on the assessment roll for the most recent lien date, prior to the closing of that assessment roll. Additionally, an application appealing a base year value for the most recent lien date, where that value is not the value currently on the assessment roll, shall be filed with the clerk during the regular filing period beginning July 2 but no later than September 15.

(2) An application for a change of assessment made outside the regular assessment period appealing an escape assessment or a supplemental assessment must be filed with the clerk no later than 60 days after the date on which the assessee was notified of the assessment, or no later than 60 days after the mailing of the tax bill in a county of the first class and in those counties where the board of supervisors has adopted a resolution to that effect, pursuant to section 1605 of the Revenue and Taxation Code. Except as provided in Revenue and Taxation Code sections 619.2, 620 and 620.5, the board has no jurisdiction to hear an application unless filed within the time specified. The regular assessment period is from January 1 to and including July 1 or to such later date for completion of the roll as may be authorized by the State Board of Equalization.

(3) An application appealing a proposed reassessment made for property damaged by misfortune or calamity pursuant to section 170 of the Revenue and Taxation Code must be filed with the clerk no later than 14 days after the date of mailing of the notice of proposed reassessment by the assessor. The decision of the board regarding the damaged value of property shall be final, however, the decision regarding the reassessment made pursuant to section 170 shall create no presumption regarding the value of the property subsequent to the date of the damage.

(4) An application will be deemed to have been timely filed:

(A) If it is sent by U.S. mail, properly addressed with postage prepaid and is postmarked on the last day of the filing period or earlier within such period; or

(B) If proof satisfactory to the board establishes that the mailing occurred on the last day of the filing period or within such period. Any statement or affidavit made by an applicant asserting such a timely filing must be made within one year of the last day of the filing period.

(5) An application filed by mail that bears both a private business postage meter postmark date and a U.S. Postal Service postmark date will be deemed to have been filed on the date that is the

same as the U.S. Postal Service postmark date, even if the private business postage meter date is the earlier of the two postmark dates. If the last day of the filing period falls on Saturday, Sunday, or a legal holiday, an application that is mailed and postmarked on the next business day shall be deemed timely filed. If the county's offices are closed for business prior to 5 p.m. or for the entire day on which the deadline for filing falls, that day shall be considered a legal holiday.

(6) Except as provided in sections 620.5, 1603, and 1605 of the Revenue and Taxation Code, the board has no jurisdiction to hear an application unless filed within the time periods specified above.

(e) **AMENDMENTS AND CORRECTIONS.** (1) ~~No~~ An applicant or an applicant's agent may amend an application ~~may be amended after~~ until 5:00 p.m. on the last day upon which the application might have been timely filed ~~if the effect of the amendment is to request relief additional to or different in nature from that originally requested.~~

(2) After the filing period has expired:

(A) An invalid application may be corrected in accordance with subsection (c)(4) of this regulation.

(B) The applicant or the applicant's agent may amend an application provided that the effect of the amendment is not to request relief additional to or different in nature from that originally requested.

(C) (i) Upon request of the applicant or the applicant's agent, the board, in its discretion, may allow the applicant or the applicant's agent to make amendments to the application in addition to those specified in subdivisions (A) and (B) to state additional facts claimed to require a reduction of the assessment that is the subject of the application.

(ii) The applicant or the applicant's agent shall state the reasons for the request, which shall be made in writing and filed with the clerk of the board prior to any scheduled hearing, or may be made orally at the hearing. If made in writing, the clerk shall provide a copy to the assessor upon receipt of the request.

(iii) As a condition to granting a request to amend an application, the board may require the applicant to sign a written agreement extending the two-year period provided in section 1604 of the Revenue and Taxation Code.

(iv) If a request to amend is granted, and upon the request of the assessor, the hearing on the matter shall be continued by the board for no less than 45 days, unless the parties mutually agree to a different period of time.

(3) An applicant or an applicant's agent shall be permitted to present testimony and other evidence at the hearing to support a full value that may be different from the opinion of value stated on the application. The presentation of such testimony or other evidence shall not be considered a request to amend or an amendment to the application.

(f) **CLAIM FOR REFUND.** If a valid application is designated as a claim for refund pursuant to section 5097 of the Revenue and Taxation Code, the applicant shall be deemed to have challenged each finding of the board and to have satisfied the requirements of section 5097.02 of the Revenue and Taxation Code.

(g) **RETENTION OF RECORDS.** The clerk may destroy records consisting of assessment appeal applications when five years have elapsed since the final action on the application. The records may be destroyed three years after the final action on the application if the records have

been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents. As used in this subsection, "final action" means the date of the final decision by the board.

(h) **CONSOLIDATION OF APPLICATIONS.** The board, on its own motion or on a timely request of the applicant or applicants or the assessor, may consolidate applications when the applications present the same or substantially related issues of valuation, law, or fact. If applications are consolidated, the board shall notify all parties of the consolidation.

NOTE - Authority: Government Code section 15606(c)

Reference: Sections 51, 166, 408.1, 1603, 1605, Revenue and Taxation Code.
Section 25105.5, Government Code.

Rule 306. COPY OF APPLICATION, AMENDMENT, AND CORRECTION TO ASSESSOR

The clerk shall transmit to the assessor a copy of each application for a change in assessment and each written request for amendment or correction that is received,~~and a~~ A reasonable time shall be allowed before the hearing for the assessor to obtain information relative to the property and the assessment thereof.

NOTE - Authority: Government Code section 15606(c)
Reference: Sections 1603, 1606, Revenue and Taxation Code.